

TESTIMONY OF ELIZABETH HELMS

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Senator Grassley, Senator Breaux, members of the Special Committee on Aging. My name is Elizabeth Helms. I am president of the TMJ Society of California, headquartered in Sacramento. I am also a steering committee member of Citizens for the Right to Know, a California-based coalition of patients, providers and voluntary health associations representing more than a million individuals focused on educating consumers about the need to become informed purchasers of healthcare, and to mandate full disclosure of health plan's benefits and limitations in consumer-friendly language prior to enrollment.

I became a patient advocate when I was denied access to care by my health plan in 1993. I did not know the right questions to ask, and not even my member services department could give me the information I needed to jump through the hoops. The lack of disclosure of my plans benefits was a call to action for me and I have been actively engaged in health care reform since that time.

I have been honored to speak nationally regarding patients rights and the need for consumers to be well educated and informed about their health care.

On behalf of the Right to Know coalition we commend the Special Committee on Aging for holding this hearing to better understand how vital formulary disclosure is for Americans now over the age of sixty-five, enrolled in MedicarePlusChoice health plans.

At the turn of the century there were approximately 3.1 million Americans 65 years and older. As we enter the new millennium 100 years later the number of American seniors has grown to over 34 million. Now making up 12.7 percent of our US population. The need for education and information has never been greater, and as we embark on the new millennium we are enjoying a new era of drug discovery, leading to innovative drug therapies which will improve the quality of our lives. This hearing can set the stage to ensure that our seniors enjoy the benefits of our nations health care system.

Disclosure

Senators, please indulge me for a moment. I would like to know how many people in this room read the ingredient labels on the food you buy? I would like to know how many of you know what prescription drugs are covered by your health care plan?

Information about our health should be better and easier to access than what's disclosed on a bag of potato chips especially for seniors.

When a consumer goes to the grocery store to make a purchase, it is possible to make an informed choice. Take a bag of potato chips for instance. Look on the back panel. It discloses the ingredients, calories, fats (saturated and unsaturated), sugars, salts not to mention the artificial colors and flavors.

We need all that just to buy a bag of potato chips. Aren't we entitled to at least the same depth and accuracy of information when our lives and health are at issue?

Many seniors sustain life, maintain quality of life and stay healthy despite chronic conditions through the use of medications. The trick to quality of life and good health in these instances is maintaining your medication regimen maintaining access. Yet when Right To Know called MedicarePlusChoice plans in California, we found that there is very little formulary disclosure. Printed material did not contain lists of formularies obtainable prior to enrollment. You had to call the plan and request the information about

a particular drug. Only one plan disclosed information about their formulary.

In some instances the HMO's referred us to call a pharmacy directly to seek information about what the plan covered. Information was cumbersome and time consuming. Seniors need to know the right questions to ask to get any useful information. When a drug is cut from a list of approved formularies, the patient/consumer finds out at the pharmacy counter. Drugs have been switched to generic and therapeutic substitutions without any prior notice. Delays and trips back to the pharmacy happen often, and it is sometimes difficult for a senior to return to the pharmacy to obtain their correct prescription.

When a drug must go through prior-authorization, the senior member is not informed about this process, or how it works. For instance, a newer more expensive drug may only be allowed after several less expensive drugs have been tried. This is called the "step-system for successful failures". A drug may be cut from the formulary and the patient is switched to another, generally less costly, even if the patient has been doing well on the current medication. This places the senior patient at great risk, I have personally witnessed this practice. The senior is totally unaware their medication was changed due to a cost factor. They are not informed. This has happened to patients taking high blood pressure and mental health medications, etc. There are innumerable horror stories about patients who suffered severe and serious consequences from the switching of drugs, or suffered serious side effects when switched to drugs which were less effective because they were perceived to be less costly.

California law under Know-Keene "Section 1367 (g) provides that a plan "shall be able to demonstrate to the department that medical decisions are rendered by qualified medical providers, unhindered by fiscal and administrative management." This means that any medication whether it is on the formulary or not can be obtainable if medically necessary and provided the physician will actively advocate for their patient. I can assure you seniors and their physicians are not aware of this law unless they have found out through the media or other sources. This information is not disclosed.

California has taken a bold forward step in the management of formulary disclosure.

First, two landmark pieces of legislation were signed into law this year. AB 974, authored by Assembly Member Martin Gallegos, mandates continuity of prescription benefits by requiring plans to continue to provide on-going doctor-prescribed medication for patients even after the medication has been removed from the formulary. SB 625, by Senator Hershal Rosenthal, requires a plan to provide, upon request, a copy of the their formulary and file information, about the adoption of a formulary. RTK worked very hard to insure passage of these two bills.

Prior to these new laws becoming effective, The California Department of Corporations (DOC) which oversees HMOs in the State had to step in. DOC, acting on the complaints of many senior consumers, began an investigation into HMO formulary practices. The HMOs had been accused of drug switching, improper denial of medications and non-disclosure of formulary changes. The investigation is ongoing. Misuse of formulary practices have the potential of being severely damaging to the senior population. We applaud the DOC and our state legislators for taking the initiative to insure consumers were protected.

To illustrate my point, I ask that each of you take this simple quiz about your own HMO's formulary. Even those of us educated and interested in this subject are uninformed in regards to many coverage issues. Take the quiz to see if you know more than the rest of us. I have enclosed a list of questions for you to answer and for your future use.

Senators, you have the opportunity to ensure the Health Care Financing Administration (HCFA) has the

ability to protect the seniors under their care. I urge you in all opportunities, provide for consumers right to easy, understandable access to care. Please take the lead in this country and ensure MedicarePlusChoice plans disclose information fairly and that those plans make changes to coverage and their formularies without damaging consumer health and happiness.

It has been a great honor for me to be here today and a very long journey through time in coming. Thank you .